

## REPORT OF CONFERENCE COMMITTEE

**MR. SPEAKER AND MADAM PRESIDENT:**

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

H. B. No. 1307: Assault; include municipal court judges in enhanced penalties.

We, therefore, respectfully submit the following report and recommendation:

1. That the Senate recede from its Amendment No. 1.
2. That the House and Senate adopt the following amendment:

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

7           **SECTION 1.** Section 97-3-7, Mississippi Code of 1972, as  
8 amended by Senate Bill No. 2388, 2006 Regular Session, is amended  
9 as follows:  
10           97-3-7. (1) A person is guilty of simple assault if he (a)  
11 attempts to cause or purposely, knowingly or recklessly causes  
12 bodily injury to another; or (b) negligently causes bodily injury  
13 to another with a deadly weapon or other means likely to produce  
14 death or serious bodily harm; or (c) attempts by physical menace  
15 to put another in fear of imminent serious bodily harm; and, upon  
16 conviction, he shall be punished by a fine of not more than Five  
17 Hundred Dollars (\$500.00) or by imprisonment in the county jail  
18 for not more than six (6) months, or both. However, a person  
19 convicted of simple assault (a) upon a statewide elected official,  
20 law enforcement officer, fireman, emergency medical personnel,  
21 public health personnel, social worker or family protection  
22 specialist or family protection worker employed by the Department  
23 of Human Services or another agency, superintendent, principal,  
24 teacher or other instructional personnel, school attendance  
25 officer, school bus driver, or a judge of a circuit, chancery,  
26 county, justice, municipal or youth court or a judge of the Court  
27 of Appeals or a justice of the Supreme Court, district attorney,

28 legal assistant to a district attorney, county prosecutor,  
29 municipal prosecutor, court reporter employed by a court, court  
30 administrator, clerk or deputy clerk of the court, or public  
31 defender, while such statewide elected official, judge or justice,  
32 law enforcement officer, fireman, emergency medical personnel,  
33 public health personnel, social worker, family protection  
34 specialist, family protection worker, superintendent, principal,  
35 teacher or other instructional personnel, school attendance  
36 officer, school bus driver, district attorney, legal assistant to  
37 a district attorney, county prosecutor, municipal prosecutor,  
38 court reporter employed by a court, court administrator, clerk or  
39 deputy clerk of the court, or public defender is acting within the  
40 scope of his duty, office or employment, or (b) upon a legislator  
41 while the Legislature is in regular or extraordinary session or  
42 while otherwise acting within the scope of his duty, office or  
43 employment, shall be punished by a fine of not more than One  
44 Thousand Dollars (\$1,000.00) or by imprisonment for not more than  
45 five (5) years, or both.

46 (2) A person is guilty of aggravated assault if he (a)  
47 attempts to cause serious bodily injury to another, or causes such  
48 injury purposely, knowingly or recklessly under circumstances  
49 manifesting extreme indifference to the value of human life; or  
50 (b) attempts to cause or purposely or knowingly causes bodily  
51 injury to another with a deadly weapon or other means likely to  
52 produce death or serious bodily harm; and, upon conviction, he  
53 shall be punished by imprisonment in the county jail for not more  
54 than one (1) year or in the Penitentiary for not more than twenty  
55 (20) years. However, a person convicted of aggravated assault (a)  
56 upon a statewide elected official, law enforcement officer,  
57 fireman, emergency medical personnel, public health personnel,  
58 social worker, family protection specialist, family protection  
59 worker employed by the Department of Human Services or another

60 agency, superintendent, principal, teacher or other instructional  
61 personnel, school attendance officer, school bus driver, or a  
62 judge of a circuit, chancery, county, justice, municipal or youth  
63 court or a judge of the Court of Appeals or a justice of the  
64 Supreme Court, district attorney, legal assistant to a district  
65 attorney, county prosecutor, municipal prosecutor, court reporter  
66 employed by a court, court administrator, clerk or deputy clerk of  
67 the court, or public defender, while such statewide elected  
68 official, judge or justice, law enforcement officer, fireman,  
69 emergency medical personnel, public health personnel, social  
70 worker, family protection specialist, family protection worker,  
71 superintendent, principal, teacher or other instructional  
72 personnel, school attendance officer, school bus driver, district  
73 attorney, legal assistant to a district attorney, county  
74 prosecutor, municipal prosecutor, court reporter employed by a  
75 court, court administrator, clerk or deputy clerk of the court, or  
76 public defender is acting within the scope of his duty, office or  
77 employment, or (b) upon a legislator while the Legislature is in  
78 regular or extraordinary session or while otherwise acting within  
79 the scope of his duty, office or employment, shall be punished by  
80 a fine of not more than Five Thousand Dollars (\$5,000.00) or by  
81 imprisonment for not more than thirty (30) years, or both.

82 (3) A person is guilty of simple domestic violence who  
83 commits simple assault as described in subsection (1) of this  
84 section against a family or household member who resides with the  
85 defendant or who formerly resided with the defendant, a current or  
86 former spouse, a person who has a current dating relationship with  
87 the defendant, or a person with whom the defendant has had a  
88 biological or legally adopted child and upon conviction, the  
89 defendant shall be punished as provided under subsection (1) of  
90 this section; however, upon a third or subsequent conviction of  
91 simple domestic violence, whether against the same or another

92 victim and within five (5) years, the defendant shall be guilty of  
93 a felony and sentenced to a term of imprisonment not less than  
94 five (5) nor more than ten (10) years. In sentencing, the court  
95 shall consider as an aggravating factor whether the crime was  
96 committed in the physical presence or hearing of a child under  
97 sixteen (16) years of age who was, at the time of the offense,  
98 living within either the residence of the victim, the residence of  
99 the perpetrator, or the residence where the offense occurred.

100 (4) A person is guilty of aggravated domestic violence who  
101 commits aggravated assault as described in subsection (2) of this  
102 section against a family or household member who resides with the  
103 defendant or who formerly resided with the defendant, or a current  
104 or former spouse, a person who has a current dating relationship  
105 with the defendant, or a person with whom the defendant has had a  
106 biological or legally adopted child and upon conviction, the  
107 defendant shall be punished as provided under subsection (2) of  
108 this section; however, upon a third or subsequent offense of  
109 aggravated domestic violence, whether against the same or another  
110 victim and within five (5) years, the defendant shall be guilty of  
111 a felony and sentenced to a term of imprisonment of not less than  
112 five (5) nor more than twenty (20) years. In sentencing, the  
113 court shall consider as an aggravating factor whether the crime  
114 was committed in the physical presence or hearing of a child under  
115 sixteen (16) years of age who was, at the time of the offense,  
116 living within either the residence of the victim, the residence of  
117 the perpetrator, or the residence where the offense occurred.  
118 Reasonable discipline of a child, such as spanking, is not an  
119 offense under this subsection (4).

120 (5) "Dating relationship" means a social relationship of a  
121 romantic or intimate nature.

122 (6) Every conviction of domestic violence may require as a  
123 condition of any suspended sentence that the defendant participate

124 in counseling or treatment to bring about the cessation of  
125 domestic abuse. The defendant may be required to pay all or part  
126 of the cost of the counseling or treatment, in the discretion of  
127 the court.

128 (7) In any conviction of assault as described in any  
129 subsection of this section which arises from an incident of  
130 domestic violence, the sentencing order shall include the  
131 designation "domestic violence."

132 **SECTION 2.** Section 43-1-55, Mississippi Code of 1972, as  
133 amended by Senate Bill No. 2388, 2006 Regular Session, is amended  
134 as follows:

135 43-1-55. (1) The Office of Family and Children's Services  
136 and the Division of Aging and Adult Services shall devise  
137 formal \* \* \* standards for employment as a family protection  
138 worker and as a family protection specialist within their  
139 respective offices and for service delivery designed to measure  
140 the quality of services delivered to clients, as well as the  
141 timeliness of services. Each family protection worker and family  
142 protection specialist shall be assessed annually by a supervisor  
143 who is a licensed social worker who is knowledgeable in the  
144 standards promulgated. The standards devised by each office shall  
145 be applicable to all family protection workers and family  
146 protection specialists working under that office.

147 (2) The Office of Family and Children's Services shall  
148 devise formal standards for family protection workers of the  
149 Department of Human Services who are not licensed social workers.  
150 Those standards shall require that:

151 (a) In order to be employed as a family protection  
152 worker, a person must have a bachelor's degree in either  
153 psychology, sociology, nursing, family studies, or a related  
154 field, or a graduate degree in either \* \* \* psychology, sociology,  
155 nursing, criminal justice, counseling, marriage and family therapy

156 or a related field. The determination of what is a related field  
157 shall be made by certification of the State Personnel Board; and

158 (b) Before a person may provide services as a family  
159 protection worker, the person shall complete four (4) weeks of  
160 intensive training provided by the training unit of the Office of  
161 Family and Children's Services, and shall take and receive a  
162 passing score on the certification test administered by the  
163 training unit upon completion of the four-week training. Upon  
164 receiving a passing score on the certification test, the person  
165 shall be certified as a family protection worker by the Department  
166 of Human Services. Any person who does not receive a passing  
167 score on the certification test shall not be employed or maintain  
168 employment as a family protection worker for the department.  
169 Further, a person, qualified as a family protection worker through  
170 the procedures set forth above, shall not conduct forensic  
171 interviews of children until the worker receives additional  
172 specialized training in child forensic interview protocols and  
173 techniques by a course or curriculum approved by the Department of  
174 Human Services to be not less than forty (40) hours.

175 (3) For the purpose of providing services in child abuse or  
176 neglect cases, youth court proceedings, vulnerable adults cases,  
177 and such other cases as designated by the Executive Director of  
178 Human Services, the caseworker or service provider shall be a  
179 family protection specialist or a family protection worker whose  
180 work is overseen by a family protection specialist who is a  
181 licensed social worker.

182 (4) The Department of Human Services and the Office of  
183 Family and Children's Services shall seek to employ and use \* \* \*  
184 family protection specialists to provide the services of the  
185 office, and may employ and use family protection workers to  
186 provide those services only in counties in which there is not a

187 sufficient number of \* \* \* family protection specialists to  
188 adequately provide those services in the county.

189 (5) (a) There is created a Training and Testing Advisory  
190 Council to review the department's program of training and testing  
191 of family protection workers and to make recommendations  
192 pertaining to the program to the department. The advisory council  
193 shall be composed of the following ten (10) members: two (2)  
194 employees of the department appointed by the Executive Director of  
195 Human Services, including one (1) representative of the Office of  
196 Family and Children's Services and one (1) representative of the  
197 Division of Aging and Adult Services; the Chairman of the  
198 Consortium of Accredited Schools of Social Work in Mississippi;  
199 and the executive director or a board member of a professional  
200 association or licensing board for each field of study named in  
201 paragraph (2)(a) of this section, as follows: the Mississippi  
202 Chapter of the National Association of Social Workers; a marriage  
203 and family therapist who is a member of the Board of Examiners for  
204 Social Workers and Marriage and Family Therapists, to be selected  
205 by the four (4) members of the board of examiners who are marriage  
206 and family therapists; the Mississippi Nurses' Association; the  
207 Mississippi Prosecutors Association; the Mississippi Counseling  
208 Association; the Mississippi Psychological Association; and an  
209 officer of the Alabama-Mississippi Sociological Association who is  
210 a Mississippi resident elected by the executive committee of the  
211 association. The executive director of each association  
212 (excluding the Alabama-Mississippi Sociological Association) and  
213 chairman of the consortium may designate an alternate member to  
214 serve in his stead on the advisory counsel. Members of the  
215 advisory council shall serve without salary or per diem.

216 (b) A majority of the advisory council members shall  
217 select from their membership a chairperson to preside over  
218 meetings and a vice chairperson to preside in the absence of the

219 chairperson or when the chairperson is excused. The advisory  
220 council shall adopt procedures governing the manner of conducting  
221 its business. A majority of the members shall constitute a quorum  
222 to do business.

223 (6) This section and Section \* \* \* 43-27-107, Mississippi  
224 Code of 1972, shall stand repealed on July 1, 2009.

225 **SECTION 3.** This act shall take effect and be in force from  
226 and after July 1, 2006.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 97-3-7, MISSISSIPPI CODE OF 1972, TO  
2 INCLUDE MUNICIPAL COURT JUDGES IN THE ENHANCED PROVISIONS OF THE  
3 AGGRAVATED ASSAULT STATUTE; TO AMEND SECTION 43-1-55, MISSISSIPPI  
4 CODE OF 1972, TO REMOVE THE REPEALER ON THE ASSAULT STATUTE; AND  
5 FOR RELATED PURPOSES.

CONFEREES FOR THE HOUSE

X (SIGNED)  
Blackmon

X (SIGNED)  
Simpson

X (SIGNED)  
Johnson

CONFEREES FOR THE SENATE

X (SIGNED)  
Ross

X (SIGNED)  
Doxey

X (SIGNED)  
Frazier